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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,617	01/23/2002	Jerry L. Farrar	CARSON.12CPC1	3159

20995 7590 01/17/2003

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EXAMINER

THOMPSON, HUGH B

ART UNIT	PAPER NUMBER
3634	

DATE MAILED: 01/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 10/057,617 Examiner Hugh B. Thompson	Applicant(s) Farrar et al Art Unit 3634	
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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on Jan 23, 2002

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-17 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-17 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2,3

4) Interview Summary (PTO-413) Paper No(s). _____

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-12 and 14-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. With respect to claim 1, lines 7-8, it is unclear as to how one frame and one retainer can define *two* recesses. Further, does *each recess* have a lip and recessed surface?

4. With respect to claim 2, only *one* retainer has been set forth in claim 1.

5. With respect to claims 3, 4, 8, and 9, there is no antecedent basis for “the opening”.

6. With respect to claim 10, there is no antecedent basis for “the retaining surface”.

7. With respect to claim 12, there is no antecedent basis for “the bottom and top”.

8. With respect to claim 13, line 5, there is no antecedent basis for “the upper edge of the frame”.

9. With respect to claim 14, there is no antecedent basis for “the acts”.

Claim Rejections - 35 USC § 102

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10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-3, 5-10, and 12, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Smith et al #5,735,089. Smith et al disclose, as best seen in Figure 2, a glazing and window assembly comprised of glazing 14 (seated in an unnumbered recessed surface), panel 12 (seated in an unnumbered recessed surface), frame 20, defining an aperture to receive retainers 16, 18, therein, each with a plurality of unnumbered lips, the frame also having support/base elements (unnumbered), retainer legs 17, 19(serrated), and additional apertures 21, 22, 25.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

13. Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al as applied to claims 1-3, 5-10, and 12 above, and further in view of Mesnel et al #5,261,206.

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Smith et al fail to disclose mating serrated edges for securing elements within a frame and a second panel. Mesnel et al teach the well known utility of mating serrated edges 8 of a window profile, used to secure elements to one another within a frame of the window profile. Therefore, to one of ordinary skill in the art, it would have been obvious, as a matter of engineering design choice, to provide the assembly of Smith et al with mating serrated edges, so as to secure elements to one another within the frame, while producing no new and unexpected results. It would have been further obvious to provide a second panel, this being no more than a duplication of parts, not expected to produce any new and unexpected results.

Allowable Subject Matter

14. Claims 13-17 are objected to, but would be allowable if rewritten to overcome the Section 112 ambiguities as noted above. The primary reason for allowance of claim 13 is the inclusion of a method step requiring positioning of an upper edge of the panel into a void defined by an upper retainer located at an upper edge of the frame, such that a lower edge of the panel is adjacent a lip of a lower retainer, the lower edge of the panel positioned inward past the lip, and moving the lower edge of the panel downward in an opening defined by the lower retainer until the lower edge of the panel rests on a recessed surface, so that the upper edge is retained in the void by the upper retainer. The prior art of record fails to teach or suggest the claimed features absent the applicants' own disclosure.

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Double Patenting

15. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

16. Claims 1-17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 6,408,574 and claims 1 and 10 of U.S. Patent No. 6,205,723. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the opening/aperture of each claim 1 and the retatiner structure, including the serrated egdges.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Hugh B. Thompson whose telephone number is (703) 305-0102. The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Stodola, can be reached on (703) 308-2686. The official fax phone number for this Group is (703) 305-3597, and the unofficial fax phone number (for drafts) is (703) 746-3641.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.



Hugh B. Thompson

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January 13, 2003